

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER**

_____)	
UNITED STATES OF AMERICA,)	
Complainant,)	8 U.S.C. § 1324c Proceeding
)	
v.)	
)	OCAHO Case No. 96C00027
PEDRO DOMINGUEZ,)	
Respondent.)	Judge Robert L. Barton, Jr.
_____)	

ORDER SETTING BRIEFING SCHEDULE
(February 13, 1998)

The hearing in this case was concluded on January 22, 1998, and the record was closed at that time. Tr. at 528, 537. At the conclusion of the hearing, I stated that, once the transcript was prepared, I would issue an order setting a briefing schedule. Tr. at 532. Further, I noted that both parties would need to order a transcript because the briefs must refer to the specific testimony by referencing the transcript pages. Tr. at 530. I also noted that the parties would be required to file their briefs contemporaneously, Tr. at 528, and that reply briefs will not be permitted unless the Court orders otherwise. Tr. at 535. A party should not assume that a reply brief will be permitted. Many issues have been resolved in prehearing rulings, and the remaining issues clearly are set forth in the Final Prehearing Order. Therefore, there should not be any major surprises that justify a reply brief. However, if either party wishes to file a reply brief, it shall file a motion with the Court not later than seven days after the service of the opposing party's brief.

The transcripts of the hearing now have been prepared and filed by the reporting company and are available to the parties.¹ The OCAHO Rules of Practice provide for filing of briefs within twenty days of the filing of the transcript or such additional time as the Judge may allow. 28 C.F.R. § 68.52(a) (1997). Given the circumstances here, I believe that the parties' request for thirty days to file their briefs is reasonable. Since this Monday is a federal holiday, I am setting the date for

¹ It is my understanding that Complainant has received a copy of the transcript, but that Respondent has not yet received its copy. However, Heritage Reporting Corporation has informed the Court that it has not mailed the copy to Respondent because it has not paid for the copy as yet. Respondent should act promptly to secure a transcript. A request for an extension of time to file a brief because the hearing transcript was not ordered in a timely manner will not be favorably considered.

filing of briefs thirty days from this Tuesday, February 17, 1998. Therefore, the parties are ordered to file their post-hearing briefs with the Court not later than March 19, 1998,² and they also should make arrangements so that the brief is received by opposing counsel not later than March 19 as well.

The briefs must contain a table of contents and a table of authorities; must be double spaced; and shall be paginated. Each brief shall not exceed fifty double spaced pages unless, prior to the filing date, the Court grants permission to file a lengthier brief. The briefs shall contain two separate sections: (1) a numbered set of proposed factual findings and proposed conclusions; and (2) a legal memorandum that discusses the pertinent statutory and regulatory provisions and relevant case law and how the legal authority relates to the facts of this case. Each proposed finding must be supported by references to the evidentiary record; i.e., pleadings, orders, exhibits in evidence, and/or testimony. When referring to the hearing transcript or to a transcript of a prehearing conference, the parties shall refer to the specific pages and lines of the transcript. When referring to an exhibit, the parties must refer not only to the exhibit number but also to the specific page(s) of the exhibit. Any proposed finding that fails to comport with these requirements may be rejected. In the legal memorandum, a citation to a case must include a reference to the specific page(s) of the decision that support or are relevant to the textual material in the brief for which the case is cited. If a brief substantially fails to comport with the requirements of this Order, it might not be accepted for filing.

Any questions about the format of the brief may be directed to my law clerk Laura Conner at (703) 305-1739.

ROBERT L. BARTON, JR.
ADMINISTRATIVE LAW JUDGE

² The parties are reminded that, pursuant to the OCAHO Rules of Practice, “filed” means that the briefs must be received by my office not later than March 19, 1998. See 28 C.F.R. § 68.8(b) (1997).

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of February, 1998, I have served the foregoing Order Setting Briefing Schedule on the following persons, by first class mail (unless otherwise indicated), at the addresses shown:

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